Union Budget 2014-15

Analysis of Major Direct tax proposals

RATES OF INCOME TAX

- No change in the basic exemption limit and the tax rates for individuals
- Corporate tax rates proposed to be reduced from 30% to 25% over the next four years, starting from next financial year. For FY 2015-16, it is 30% same as last year.
- Additional surcharge @ 2% being levied on income exceeding Rs. 1 crore. This surcharge would be levied in place of Wealth-tax which is proposed to be abolished.

			Surcharge	
S.No.	**Type of Assessee**	**Total Income**	**Existing**	**Proposed**
1	Individual or HUF or AOP or BOI	Exceeding Rs 1 crore rupees	10%	12%
2	Co-operative Societies	Exceeding Rs 1 crore rupees	10%	12%
3	Firms including LLP	Exceeding Rs 1 crore rupees	10%	12%
4	Domestic Companies	Exceeding Rs 1 crore rupees but does not exceed Rs 10 crore rupees	5%	7%
		Exceeding Rs 10 crore rupees	10%	12%

DEDUCTIONS FROM GROSS TOTAL INCOME UNDER CHAPTER VI-A

Tax Benefit under Section 80C for the girl child under Sukanya Samriddhi Account Scheme: Exempt-Exempt-Exempt (EEE) tax benefit proposed for assessee having a girl child and investing under the Sukanya Samriddhi Account Scheme. The investments made in the Scheme will be eligible for deduction under section 80C of the Act, the interest accruing on deposits in such account will be exempt from income tax and the withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax under section 10.

Section 80D – Health Insurance Premia: In view of continuous rise in the cost of medical expenditure, section 80D is proposed to be amended to raise the limit of deduction from 15,000 to Rs. 25,000. Further, the limit of deduction for senior citizens is also proposed to be increased from Rs. 20,000 to Rs. 30,000.

Further, very senior citizens are often unable to get health insurance coverage and are therefore unable to take tax benefit under section 80D. Accordingly, as a welfare measure towards very senior citizens ,it is also proposed to provide that any payment made on account of medical

expenditure in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person, as does not exceed thirty thousand rupees shall be allowed as deduction under section 80D. The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred would however be limited to thirty thousand rupees.

Raising of limit of deduction under section 80DDB: The limit for deduction under section 80DDB is proposed to be increased to Rs. 80,000 in respect of amount paid for medical treatment **of very senior citizen**.

Further, in order to remove the hardship faced by tax apyers in getting the certificate from specialist doctor from government hospital, it has been proposed to amend section 80DDB so as to provide that the tax payer will be required to obtain a prescription from a specialist doctor for the purpose of availing this deduction.

Raising the limit of deduction under section 80DD and 80U for persons with disability and severe disability: In view of the rising cost of medical care and special needs of a disabled person, it is proposed to amend section 80DD and section 80U so as to raise the limit of deduction in respect of a person with disability **from fifty thousand rupees to seventy five thousand rupees.**

It is further proposed to amend the section so as to raise the limit of deduction in respect of a person with severe disability **from one lakh rupees to one hundred and twenty five thousand rupees**.

Raising the limit of deduction under 80CCC: In order to promote social security, deduction section 80CCC(1) which provides for deduction of amount paid or deposited to effect or keep in force a contract for any annuity plan of LIC or any other insurer for receiving pension from a fund set up under a pension scheme is proposed to be amended to raise the limit of deduction **from 1 lakh to Rs. 1.5 lakh**, within the overall limit provided in section 80CCE.

Additional deduction under 80CCD i.e. Deduction in respect of contribution to pension scheme of Central Government: In addition to the enhancement of the limit under section 80CCD(1), it is further proposed to insert a new sub-section (1B) so as to provide for an additional deduction in respect of any amount paid, of upto fifty thousand rupees for contributions made by any individual assessees under the NPS.

Section 80G – Donations:

(a) Section 80G is proposed to be amended to provide for 100% deduction in respect of donations made to the **National Fund for Control of Drug Abuse.**

(b) **Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund:** It is proposed to provide that donations made by any donor to the Swachh Bharat Kosh and donations made by domestic donors to Clean Ganga Fund will be eligible for a deduction of hundred per cent from the total income. However, any sum spent in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor.

ENABLING OF FILING OF FORM 15G/15H FOR PAYMENT MADE UNDER LIFE INSURANCE POLICY

Section 194DA provide for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year is less than Rs. 1,00,000. In spite of providing high threshold for deduction of tax under this section, there may be cases where the tax payable on recipient's total income, including the payment made under life insurance, will be nil.

Therefore, It is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

INCENTIVES FOR THE STATE OF ANDHRA PRADESH AND THE STATE OF TELANGANA

(a) Additional Investment Allowance

A new section 32AD is proposed to be inserted to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—

(i) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and

(ii) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

This deduction shall be available over and above the existing deduction available under section 32AC of the Act. Accordingly, if an undertaking is set up in the notified backward areas in the States of Andhra Pradesh or Telangana by a company, it shall be eligible to claim deduction under the existing provisions of section 32AC of the Act as well as under the proposed section 32AD if it fulfills the conditions (such as investment above a specified threshold) specified in the said section 32AC and conditions specified under the proposed section 32AD.

(b) **Additional Depreciation at the rate of 35%**

Further, in order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh or the State of Telangana, it is proposed **to allow higher additional depreciation at the rate of 35% (instead of 20%)** in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana on or after the 1st day of April, 2015.

To remove the discrimination in the matter of allowing additional depreciation under section 32(1)(iia) on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the **balance 50% of the additional depreciation** on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

DEDUCTION FOR EMPLOYMENT OF NEW WORKMEN [SECTION 80JJAA]

With a view to encourage generation of employment, it is proposed to amend the section so as to extend the benefit to all assessees having manufacturing units rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

ALLOWANCE OF BALANCE 50% ADDITIONAL DEPRECIATION [SECTION 32(1)(iia)]

To encourage investment in plant or machinery by the manufacturing and power sector, additional depreciation of 20% of the cost of new plant or machinery acquired and installed is allowed under the existing provisions of section 32(1)(iia) of the Act over and above the general depreciation allowance. On the lines of allowability of general depreciation allowance, the second proviso to section 32(1) inter alia provides that the additional depreciation would be restricted to 50% when the new plant or machinery acquired and installed by the assessee, is put to use for the

purposes of business or profession for a period of less than one hundred and eighty days in the previous year. Non-availability of full 100% of additional depreciation for acquisition and installation of new plant or machinery in the second half of the year may motivate the assessee to defer such investment to the next year for availing full 100% of additional depreciation in the next year. To remove the discrimination in the matter of allowing additional depreciation on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

RATIONALISING THE PROVISIONS OF SECTION 115JB

It is proposed to amend the section 115JB so as to provide that the **share of a member of an AOP**, in the income of the AOP, on which no income–tax is payable in accordance with the provisions of section 86 of the Act, should be excluded while computing the MAT liability of the member under 115JB of the Act. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposedto be added back to the book profit for the purpose of computation of MAT.

Further, It is proposed to amend the provisions of section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

MODE OF TAKING OR ACCEPTING CERTAIN LOANS, DEPOSITS AND SPECIFIED SUMS AND MODE OF REPAYMENT OF LOANS OR DEPOSITS AND SPECIFIED ADVANCES [SECTION 269SS AND SECTION 269T]

(a) In order to curb generation of black money by way of dealings in cash in immovable property transactions, section 269SS is proposed to be amended so as to provide that no person shall accept from any person, any loan or deposit or any sum of money, whether as advance or otherwise, **in relation to transfer of an immovable property** otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

(b) Similarly, section 269T also is proposed to be amended so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it **in relation to transfer of an immovable property whether or not the transfer takes place**, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.

TAX NEUTRALITY ON MERGER OF SIMILAR SCHEMES OF MUTUAL FUNDS

Securities and Exchange Board of India has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer numbers of schemes. However, such mergers/consolidations are treated as transfer and capital gains are imposed on unit-holders under the Income-tax Act.

In order to facilitate consolidation of such schemes of mutual funds in the interest of the investors, it is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund. It is further proposed that the cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme and period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.

INTERNATIONAL TAXATION PROVISIONS

Fund Managers in India not to constitute business connection of off-shore funds

- It is proposed that mere presence of a fund manager in India would not constitute PE of the off-shore funds, as this is resulting in adverse tax consequences currently.

- In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfillment of certain conditions by the fund and the fund manager,-

(i) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and

(ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.

In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non – residents – Proposed Reduction in Royalty / FTS rate to 10% from 25%

It is proposed to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents from 25% to 10%.

Clarity relating to Indirect transfer provisions – Further clarification to Explanation 5 in section 9(1)(i)

Currently, the *Explanation* 5 in section 9(1)(i) clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

The share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-

a) exceeds the amount of ten Crore rupees; and

b) Represents at least fifty per cent. of the value of all the assets owned by the company or entity.

Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

Raising the threshold for specified domestic transaction- Increase in limit of specified domestic transaction from 5 Crores to 20 Crores rupees

It is proposed to amend section 92BA by increasing the limit of specified domestic transactions entered into by the assessee from 5 Crores to 20 Crores rupees.

Enabling the Board to notify rules for giving foreign tax credit – Rules will be prescribed to claim foreign tax credit u/s 90, 90A and 91

CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act. This amendment will take effect from 1st day of June, 2015.

Clarity regarding source rule in respect of interest received by the non-resident in certain cases

In the case of a non-resident, being a person engaged in the business of banking, the PE in India of such non-resident shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

Amendment to the conditions for determining residency status in respect of Companies

The definition of company has been proposed to be amended. Place of effective management (POEM) is proposed to be introduced for determining the residential status of company which is in line with DTAA.

It is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-

(i) it is an Indian company; or

(ii) Its place of effective management, at any time in that year, is in India. (Earlier the provision was – during that year, the control and management of its affairs is situated wholly in India)

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India

It is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed. This amendment will take effect retrospectively from 1st April, 2015.

RATIONALISATION OF PROVISIONS RELATING TO TAX DEDUCTION AT SOURCE (TDS) AND TAX COLLECTION AT SOURCE (TCS)

Insertion New Section 206CB for processing of TCS Returns: The existing provisions contained in the Income-tax Act provide the method of processing of statements of TDS. Since there was no procedure specified with respect to the processing of TCS, it is proposed to insert a new section 206CB relating to processing of statements of TCS and the said section provide that statement of TCS or a correction statement made under section 206C shall be processed in the manner specified therein.

Consequently, it is proposed through amendment in Sec. 156 that where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.

Furnishing of Information under section 195(6): It is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, **whether chargeable to tax or not, to a non-resident, not being a company or** foreign company, shall be **required to furnish the information of the prescribed sum in such form and manner as may be prescribed.**

It is further proposed to insert a new provision in the Act to provide that in case of non-furnishing of information or furnishing of incorrect information under sub-section (6) of section 195(6) of the Act, a penalty of **one lakh rupees** shall be levied.

It is also proposed to amend the provisions of section 273B of the Act to provide that **no penalty shall be imposable under this new provision if it is proved that there was reasonable cause**

for non – furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act. These amendments will take effect from 1st June, 2015.

TDS statement processing procedure defined; Fee u/s 234E may be demanded through intimation : The existing provisions of Sec.200A does not provide mechanism for determination of late fee under Sec. 234E at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of Section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act.

TDS on Salaries : it is proposed to amend the provisions of section 192 of the Act to provide that the person responsible for paying, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1) of the Act, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner.

CLARIFICATION REGARDING DEDUCTION OF TAX FROM PAYMENTS MADE TO TRANSPORTERS [SECTION 194C]

it is proposed to amend the provisions of section 194C of the Act to expressly provide that the relaxation under sub-section (6) of section 194C of the Act from non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.

RATIONALISATION OF PROVISIONS RELATING TO DEDUCTION OF TAX ON INTEREST (OTHER THAN INTEREST ON SECURITIES) [SECTION 194A]

(a) Payment of Interest by Co-operative bank to its members: it is proposed to amend the provisions of the section 194A of the Act to expressly provide that the exemption provided from deduction of tax from payment of interest to members by a co-operative society under section 194A(3)(v) of the Act shall not apply to the payment of interest on time deposits by the co-operative banks to its members.

(b) Definition of time Deposit amended: It is proposed to amend the definition of 'time deposits' so as to include recurring deposits within its scope for the purposes of deduction of tax under section 194A of the Act. However, the existing threshold limit of Rs 10,000 for non-

deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

'(c) **Interest payment by Banks working on core banking solutions:** It is proposed to amend the provisions of section 194A of the Act to provide that the computation of interest income for the purposes of deduction of tax under section 194A of the Act should be made with reference to the income credited or paid by the banking company or the co-operative bank or the public company (i.e all branches) which has adopted core banking solutions.

(d) **Motor Accident Claim Tribunal compensation**: It is proposed to amend the provisions of section 194A of the Income-tax Act, 1961 to provide that deduction of tax under section 194A of the Act from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made **only at the time of payment**, if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs.50,000/-.

SIMPLIFICATION OF TAX DEDUCTION AT SOURCE (TDS) MECHANISM FOR EMPLOYEES PROVIDENT FUND SCHEME (EPFS)[NEW SECTION 192A]

It is proposed to insert a new section 192A so as to provide that notwithstanding anything contained in any other provisions of this Act, the trustees of the Employees' Provident Fund Scheme, 1952 framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, or any person authorized under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.

It is further proposed to provide that no deduction under aforesaid section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees.

It is further proposed to provide that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

CERTAIN ACCOUNTANTS NOT TO GIVE REPORTS/CERTIFICATES [SECTION 288]

It has been proposed to amend Section 288 of the Act to provide that an auditor who is not eligible to be appointed as an auditor under Section 141(3) of Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act. On similar lines, ineligibility for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of non-company is also proposed to be provided.

It has been clarified that such ineligibility for carrying out any audit or furnishing of any report/certificate in respect of assessee shall not make an Accountant ineligible for attending income-tax proceedings in accordance with Section 288(1). However an Accountant who is convicted by a Court for an offence involving fraud shall not be eligible to act as AR before Income-tax Authorities for a period of 10 years from the date of his conviction.

DEFINITION OF CHARITABLE PURPOSE [SECTION 2(15)]

(a) The definition for charitable purpose provided under section 2(15) is proposed to be amended to include the activity of Yoga as a special category of activity to be considered as charitable purpose on the lines of education.

(b) The definition is proposed to be further amended to provide that the advancement of any other object of general public utility shall not be a charitable purpose**,** if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year .

SIMPLIFICATION OF APPROVAL REGIME FOR ISSUE OF NOTICE FOR RE-ASSESSMENT [SECTION 148]

It is proposed to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

REVISION OF ORDER THAT IS ERRONEOUS IN SO FAR AS IT IS PREJUDICIAL TO THE INTERESTS OF REVENUE [SECTION 263]

The existing provisions contained in sub-section (1) of section 263 of the Income-tax Act provides that if the Principal Commissioner or Commissioner considers that any order passed by the assessing officer is erroneous in so far as it is prejudicial to the interests of the Revenue, he may, after giving the assessee an opportunity of being heard and after making an enquiry pass an order modifying the assessment made by the assessing officer or cancelling the assessment and irecting fresh assessment.
The interpretation of expression "erroneous in so far as it is prejudicial to the interests of the revenue" has been a contentious one.

In order to provide clarity on the issue it is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which, should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

PROCEDURE FOR APPEAL BY REVENUE WHEN AN IDENTICAL QUESTION OF LAW IS PENDING BEFORE SUPREME COURT [SECTION 158AA]

Accordingly, it is proposed to insert a new section 158AA so as to provide that notwithstanding anything contained in this Act, where any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal or in a special leave petition under Article 136 of the Constitution filed by the revenue, against the order of the High Court in favour of the assessee, the Commissioner or Principal Commissioner may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case.

It is further proposed to provide that the Commissioner or Principal Commissioner shall proceed under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case. However, in case no such acceptance is received the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in section (2) or section (2A) of section 253 and accordingly may, if he objects to the order passed by the Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal.

It is also proposed to provide that where the order of the Commissioner (Appeals) is not in conformity with the final decision on the question of law in the other case (if the Supreme Court decides the earlier case in favour of the Department), the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order within sixty days from the date on which the order of the Supreme Court is communicated to the Commissioner or Principal Commissioner and save as otherwise provided in the said section 158AA, all other provisions of Part B of Chapter XX shall apply accordingly.

RAISING THE INCOME-LIMIT OF THE CASES THAT MAY BE DECIDED BY SINGLE MEMBER BENCH OF ITAT [SECTION 255(3)]

The existing provision contained in sub-section (3) of section 255 of the Income-tax Act provides for constitution of a single member bench and a Special Bench. It provides that single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed five lakh rupees. The limit of five lakh rupees for a single member bench was last revised in 1998.

Accordingly, it is proposed to amend sub-section (3) of section 255 of the Income-tax Act so as to provide that a bench constituted of a single member may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

GENERAL ANTI AVOIDANCE RULE (GAAR)

The implementation of General Anti Avoidance Rule (GAAR) is proposed to be deferred by two years. Accordingly, it would be applicable for the financial year 2017-18 (A.Y. 2018-19) and subsequent years. Further, it is also proposed that the investments made upto 31.03.2017 shall not be subject to GAAR.

ABOLITION OF LEVY OF WEALTH-TAX UNDER WEALTH-TAX ACT, 1957

Wealth Tax has been abolished.

DIRECT TAXES CODE

Since the jurisprudence under the Income-tax Act is well evolved and a large number of provisions of the proposed DTC have already been included in the Income-tax Act, 1961 and the remaining are proposed to be included through the Finance Bill, 2015, the Government has expressed its resolve of not going ahead with the DTC.

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